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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

13.10.87

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 22nd May, 1987/Jyaistha 1, 1909 (Saka)

The following Act of Parliament received the assent of the President on the 22nd May, 1987, and is hereby published for general information:—

THE MENTAL HEALTH ACT, 1987
No. 14 OF 1987

[*22nd May*, 1987.]

An Act to consolidate and amend the law relating to the treatment and care of mentally ill persons, to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. (*1*) This Act may be called the Mental Health Act, 1987. Short title, extent and commencement,

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different States and for different provisions of this Act, and any reference in any provision to the commencement of this Act in a State shall be

construed as a reference to the coming into force of that provision in that State.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "cost of maintenance", in relation to a mentally ill person admitted in a psychiatric hospital or psychiatric nursing home, shall mean the cost of such items as the State Government may, by general or special order, specify in this behalf;

(*b*) "District Court" means, in any area for which there is a city civil court, that court, and in any other area the principal civil court of original jurisdiction, and includes any other civil court which the State Government may, by notification, specify as the court competent to deal with all or any of the matters specified in this Act;

(*c*) "Inspecting Officer" means a person authorised by the State Government or by the licensing authority to inspect any psychiatric hospital or psychiatric nursing home;

(*d*) "licence" means a licence granted under section 8;

(*e*) "licensee" means the holder of a licence;

(*f*) "licensed psychiatric hospital" or "licensed psychiatric nursing home" means a psychiatric hospital or psychiatric nursing home, as the case may be, licensed, or deemed to be licensed, under this Act;

(*g*) "licensing authority" means such officer or authority as may be specified by the State Government to be the licensing authority for the purposes of this Act;

(*h*) "Magistrate" means,—

(*1*) in relation to a metropolitan area within the meaning of clause (*k*) of section 2 of the Code of Criminal Procedure, 1973, a Metropolitan Magistrate; 2 of 1974.

(*2*) in relation to any other area, the Chief Judicial Magistrate, Sub-Divisional Judicial Magistrate or such other Judicial Magistrate of the first class as the State Government may, by notification, empower to perform the functions of a Magistrate under this Act;

(*i*) "medical officer" means a gazetted medical officer in the service of Government and includes a medical practitioner declared, by a general or special order of the State Government, to be a medical officer for the purposes of this Act;

(*j*) "medical officer in charge", in relation to any psychiatric hospital or psychiatric nursing home, means the medical officer who, for the time being, is in charge of that hospital or nursing home;

(*k*) "medical practitioner" means a person who possesses a recognised medical qualification as defined—

(*i*) in clause (*h*) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register, as defined in clause (*k*) of that section; 102 of 1956.

(*ii*) in clause (*h*) of sub-section (*1*) of section 2 of the Indian Medicine Central Council Act, 1970, and whose name has been 48 of 1970.

entered in a State Register of Indian Medicine, as defined in clause (*j*) of sub-section (*1*) of that section; and

(*iii*) in clause (*g*) of sub-section (*1*) of section 2 of the Homoeopathy Central Council Act, 1973, and whose name has been entered in a State Register of Homoeopathy, as defined in clause (*i*) of sub-section (*1*) of that section;

59 of 1973.

(*l*) "mentally ill person" means a person who is in need of treatment by reason of any mental disorder other than mental retardation;

(*m*) "mentally ill prisoner" means a mentally ill person for whose detention in, or removal to, a psychiatric hospital, psychiatric nursing home, jail or other place of safe custody, an order referred to in section 27 has been made;

(*n*) "minor" means a person who has not completed the age of eighteen years;

(*o*) "notification" means a notification published in the Official Gazette;

(*p*) "prescribed" means prescribed by rules made under this Act;

(*q*) "psychiatric hospital" or "psychiatric nursing home" means a hospital or, as the case may be, a nursing home established or maintained by the Government or any other person for the treatment and care of mentally ill persons and includes a convalescent home established or maintained by the Government or any other person for such mentally ill persons; but does not include any general hospital or general nursing home established or maintained by the Government and which provides also for psychiatric services;

(*r*) "psychiatrist" means a medical practitioner possessing a post-graduate degree or diploma in psychiatry, recognised by the Medical Council of India, constituted under the Indian Medical Council Act, 1956, and includes, in relation to any State, any medical officer who, having regard to his knowledge and experience in psychiatry, has been declared by the Government of that State to be a psychiatrist for the purposes of this Act;

102 of 1956.

(*s*) "reception order" means an order made under the provisions of this Act for the admission and detention of a mentally ill person in a psychiatric hospital or psychiatric nursing home;

(*t*) "relative" includes any person related to the mentally ill person by blood, marriage or adoption;

(*u*) "State Government", in relation to a Union territory, means the Administrator thereof.

CHAPTER II

MENTAL HEALTH AUTHORITIES

Central Authority for Mental Health Services.

3. (*1*) The Central Government shall establish an Authority for mental health with such designation as it may deem fit.

(*2*) The Authority established under sub-section (*1*) shall be subject to the superintendence, direction and control of the Central Government.

(3) The Authority established under sub-section (1) shall—

(a) be in charge of regulation, development, direction and co-ordination with respect to Mental Health Services under the Central Government and all other matters which, under this Act, are the concern of the Central Government or any officer or authority subordinate to the Central Government;

(b) supervise the psychiatric hospitals and psychiatric nursing homes and other Mental Health Service Agencies (including places in which mentally ill persons may be kept or detained) under the control of the Central Government;

(c) advise the Central Government on all matters relating to mental health; and

(d) discharge such other functions with respect to matters relating to mental health as the Central Government may require.

Explanation.—For the purposes of this section and section 4, "Mental Health Services" include, in addition to psychiatric hospitals and psychiatric nursing homes, observation wards, day-care centres, inpatient treatment in general hospitals, ambulatory treatment facilities and other facilities, convalescent homes and half-way-homes for mentally ill persons.

State Authority for Mental Health Services.

4. (1) The State Government shall establish an Authority for mental health with such designation as it may deem fit.

(2) The Authority established under sub-section (1) shall be subject to the superintendence, direction and control of the State Government.

(3) The Authority established under sub-section (1) shall—

(a) be in charge of regulation, development and co-ordination with respect to Mental Health Services under the State Government and all other matters which, under this Act, are the concern of the State Government or any officer or authority subordinate to the State Government;

(b) supervise the psychiatric hospitals and psychiatric nursing homes and other Mental Health Service Agencies (including places in which mentally ill persons may be kept or detained) under the control of the State Government;

(c) advise the State Government on all matters relating to mental health; and

(d) discharge such other functions with respect to matters relating to mental health as the State Government may require.

CHAPTER III

PSYCHIATRIC HOSPITALS AND PSYCHIATRIC NURSING HOMES

Establishment or maintenance of psychiatric hospitals and psychiatric nursing homes.

5. (1) The Central Government may, in any part of India, or the State Government may, within the limits of its jurisdiction, establish or maintain psychiatric hospitals or psychiatric nursing homes for the admission, treatment and care of mentally ill persons at such places as it thinks fit; and separate psychiatric hospitals and psychiatric nursing homes may be established or maintained for,—

(a) those who are under the age of sixteen years;

(*b*) those who are addicted to alcohol or other drugs which lead to behavioural changes in a person;

(*c*) those who have been convicted of any offence; and

(*d*) those belonging to such other class or category of persons as may be prescribed.

(*2*) Where a psychiatric hospital or psychiatric nursing home is established or maintained by the Central Government, any reference in this Act to the State Government shall, in relation to such hospital or nursing home, be construed as a reference to the Central Government.

Establishment or maintenance of psychiatric hospitals or psychiatric nursing homes only with licence.

6. (*1*) On and after the commencement of this Act, no person shall establish or maintain a psychiatric hospital or psychiatric nursing home unless he holds a valid licence granted to him under this Act:

Provided that a psychiatric hospital or psychiatric nursing home (whether called asylum or by any other name) licensed by the Central Government or any State Government and maintained as such immediately before the commencement of this Act may continue to be maintained, and shall be deemed to be a licensed psychiatric hospital or licensed psychiatric nursing home, as the case may be, under this Act,—

(*a*) for a period of three months from such commencement, or

(*b*) if an application made in accordance with section 7 for a licence is pending on the expiry of the period specified in clause (*a*), till the disposal of such application.

(*2*) Nothing contained in sub-section (*1*) shall apply to a psychiatric hospital or psychiatric nursing home established or maintained by the Central Government or a State Government.

Application for licence.

7. (*1*) Every person, who holds, at the commencement of this Act, a valid licence authorising that person to establish or maintain any psychiatric hospital or psychiatric nursing home, shall, if the said person intends to establish or continue the maintenance of such hospital or nursing home after the expiry of the period referred to in clause (*a*) of the proviso to sub-section (*1*) of section 6, make, at least one month before the expiry of such period, an application to the licensing authority for the grant of a fresh licence for the establishment or maintenance of such hospital or nursing home, as the case may be.

(*2*) A person, who intends to establish or maintain, after the commencement of this Act, a psychiatric hospital or psychiatric nursing home, shall, unless the said person already holds a valid licence, make an application to the licensing authority for the grant of a licence.

(*3*) Every application under sub-section (*1*) or sub-section (*2*) shall be in such form and be accompanied by such fee as may be prescribed.

Grant or refusal of licence.

8. On receipt of an application under section 7, the licensing authority shall make such inquiries as it may deem fit and where it is satisfied that—

(*a*) the establishment or maintenance of the psychiatric hospital or psychiatric nursing home or the continuance of the maintenance of any such hospital or nursing home established before the commencement of this Act is necessary;

(*b*) the applicant is in a position to provide the minimum facilities prescribed for the admission, treatment and care of mentally ill persons; and

(*c*) the psychiatric hospital or psychiatric nursing home, will be under the charge of a medical officer who is a psychiatrist,

it shall grant a licence to the applicant in the prescribed form, and, where it is not so satisfied, the licensing authority shall, by order, refuse to grant the licence applied for:

Provided that, before making any order refusing to grant a licence, the licensing authority shall give to the applicant a reasonable opportunity of being heard and every order of refusal to grant a licence shall set out therein the reasons for such refusal and such reasons shall be communicated to the applicant in such manner as may be prescribed.

Duration and renewal of licence.

9. (*1*) A licence shall not be transferable or heritable.

(*2*) Where a licensee is unable to function as such for any reason or where a licensee dies, the licensee or, as the case may be, the legal representative of such licensee shall forthwith report the matter in the prescribed manner to the licensing authority and notwithstanding anything contained in sub-section (*1*), the psychiatric hospital or psychiatric nursing home concerned may continue to be maintained and shall be deemed to be a licensed psychiatric hospital or licensed psychiatric nursing home, as the case may be,—

(*a*) for a period of three months from the date of such report or in the case of the death of the licensee from the date of his death, or

(*b*) if an application made in accordance with sub-section (*3*) for a licence is pending on the expiry of the period specified in clause (*a*), till the disposal of such application.

(*3*) The legal representative of the licensee referred to in sub-section (*2*), shall, if he intends to continue the maintenance of the psychiatric hospital or psychiatric nursing home after the expiry of the period referred to in sub-section (*2*), make, at least one month before the expiry of such period, an application to the licensing authority for the grant of a fresh licence for the maintenance of such hospital or nursing home, as the case may be, and the provisions of section 8 shall apply in relation to such application as they apply in relation to an application made under section 7.

(*4*) Every licence shall, unless revoked earlier under section 11, be valid for a period of five years from the date on which it is granted.

(*5*) A licence may be renewed, from time to time, on an application made in that behalf to the licensing authority, in such form and accompanied by such fee, as may be prescribed, and every such application shall be made not less than one year before the date on which the period of validity of the licence is due to expire:

Provided that the renewal of a licence shall not be refused unless the licensing authority is satisfied that—

(*i*) the licensee is not in a position to provide in a psychiatric hospital or psychiatric nursing home, the minimum facilities pres-

cribed for the admission, treatment and care therein of mentally ill persons; or

(*ii*) the licensee is not in a position to provide a medical officer who is a psychiatrist to take charge of the psychiatric hospital or psychiatric nursing home; or

(*iii*) the licensee has contravened any of the provisions of this Act or any rule made thereunder.

Psychiatric hospital and psychiatric nursing home to be maintained in accordance with prescribed conditions.

10. Every psychiatric hospital or psychiatric nursing home shall be maintained in such manner and subject to such conditions as may be prescribed.

Revocation of licence.

11. (*1*) The licensing authority may, without prejudice to any other penalty that may be imposed on the licensee, by order in writing, revoke the licence if it is satisfied that—

(*a*) the psychiatric hospital or psychiatric nursing home is not being maintained by the licensee in accordance with the provisions of this Act or the rules made thereunder; or

(*b*) the maintenance of the psychiatric hospital or psychiatric nursing home is being carried on in a manner detrimental to the moral, mental or physical well-being of the inpatients thereof:

Provided that no such order shall be made except after giving the licensee a reasonable opportunity of being heard, and every such order shall set out therein the grounds for the revocation of the licence and such grounds shall be communicated to the licensee in such manner as may be prescribed.

(*2*) Every order made under sub-section (*1*) shall contain a direction that the inpatients of the psychiatric hospital or psychiatric nursing home shall be transferred to such other psychiatric hospital or psychiatric nursing home as may be specified in that order and it shall also contain such provisions (including provisions by way of directions) as to the care and custody of such inpatients pending such transfer.

(*3*) Every order made under sub-section (*1*) shall take effect,—

(*a*) where no appeal has been preferred against such order under section 12, immediately on the expiry of the period prescribed for such appeal; and

(*b*) where such appeal has been preferred and the same has been dismissed, from the date of the order of such dismissal,

Appeal.

12. (*1*) Any person, aggrieved by an order of the licensing authority refusing to grant or renew a licence, or revoking a licence, may, in such manner and within such period as may be prescribed, prefer an appeal to the State Government:

Provided that the State Government may entertain an appeal preferred after the expiry of the prescribed period if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(*2*) Every appeal under sub-section (*1*) shall be made in such form and be accompanied by such fee as may be prescribed.

Inspection of psychiatric hospitals and psychiatric nursing homes and visiting of patients.

13. (*1*) An Inspecting Officer may, at any time, enter and inspect any psychiatric hospital or psychiatric nursing home and require the production of any records, which are required to be kept in accordance with the rules made in this behalf, for inspection:

Provided that any personal records of a patient so inspected shall be kept confidential except for the purposes of sub-section (*3*).

(*2*) The Inspecting Officer may interview in private any patient receiving treatment and care therein—

(*a*) for the purpose of inquiring into any complaint made by or on behalf of such patient as to the treatment and care, or

(*b*) in any case, where the Inspecting Officer has reason to believe that any inpatient is not receiving proper treatment and care.

(*3*) Where the Inspecting Officer is satisfied that any inpatient in a psychiatric hospital or psychiatric nursing home is not receiving proper treatment and care, he may report the matter to the licensing authority and thereupon the licensing authority may issue such direction as it may deem fit to the medical officer in charge or the licensee of the psychiatric hospital, or, as the case may be, the psychiatric nursing home and every such medical officer in charge or licensee shall be bound to comply with such directions.

Treatment of out-patients.

14. Provision shall be made in every psychiatric hospital or psychiatric nursing home for such facilities as may be prescribed for the treatment of every mentally ill person, whose condition does not warrant his admission as an inpatient or who, for the time being, is not undergoing treatment as inpatient.

CHAPTER IV

ADMISSION AND DETENTION IN PSYCHIATRIC HOSPITAL OR PSYCHIATRIC NURSING HOME

PART I

Admission on voluntary basis

Request by major for admission as voluntary patient.

15. Any person (not being a minor), who considers himself to be a mentally ill person and desires to be admitted to any psychiatric hospital or psychiatric nursing home for treatment, may request the medical officer in charge for being admitted as a voluntary patient.

Request by guardian for admission of a ward.

16. Where the guardian of a minor considers such minor to be a mentally ill person and desires to admit such minor in any psychiatric hospital or psychiatric nursing home for treatment, he may request the medical officer in charge for admitting such minor as a voluntary patient.

Admission of, and regulation with respect to, voluntary patients.

17. (*1*) On receipt of a request under section 15 or section 16, the medical officer in charge shall make such inquiry as he may deem fit within a period not exceeding twenty-four hours and if satisfied that the applicant or, as the case may be, the minor requires treatment as an inpatient in the psychiatric hospital or psychiatric nursing home, he may admit therein such applicant or, as the case may be, minor as a voluntary patient.

(*2*) Every voluntary patient admitted to a psychiatric hospital or psychiatric nursing home shall be bound to abide by such regulations as may be made by the medical officer in charge or the licensee of the psychiatric hospital or psychiatric nursing home.

Discharge of voluntary patients.

18. (*1*) The medical officer in charge of a psychiatric hospital or psychiatric nursing home shall, on a request made in that behalf,—

(*a*) by any voluntary patient; and

(*b*) by the guardian of the patient, if he is a minor voluntary patient,

discharge, subject to the provisions of sub-section (*3*) and within twenty-four hours of the receipt of such request, the patient from the psychiatric hospital or psychiatric nursing home.

(*2*) Where a minor voluntary patient who is admitted as an inpatient in any psychiatric hospital or psychiatric nursing home attains majority, the medical officer in charge of such hospital or nursing home shall, as soon as may be, intimate the patient that he has attained majority and that unless a request for his continuance as an inpatient is made by him within a period of one month of such intimation, he shall be discharged, and if, before the expiry of the said period, no request is made to the medical officer in charge for his continuance as an inpatient, he shall, subject to the provisions of sub-section (*3*), be discharged on the expiry of the said period.

(*3*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), where the medical officer in charge of a psychiatric hospital or psychiatric nursing home is satisfied that the discharge of a voluntary patient under sub-section (*1*) or sub-section (*2*) will not be in the interest of such voluntary patient, he shall, within seventy-two hours of the receipt of a request under sub-section (*1*), or, if no request under sub-section (*2*) has been made by the voluntary patient before the expiry of the period mentioned in that sub-section, within seventy-two hours of such expiry constitute a Board consisting of two medical officers and seek its opinion as to whether such voluntary patient needs further treatment and if the Board is of the opinion that such voluntary patient needs further treatment in the psychiatric hospital or psychiatric nursing home, the medical officer shall not discharge the voluntary patient, but continue his treatment for a period not exceeding ninety days at a time.

PART II

Admission under special circumstances

Admission of mentally ill persons under certain special circumstances.

19. (*1*) Any mentally ill person who does not, or is unable to, express his willingness for admission as a voluntary patient, may be admitted and kept as an inpatient in a psychiatric hospital or psychiatric nursing home on an application made in that behalf by a relative or a friend of the mentally ill person if the medical officer in charge is satisfied that in the interests of the mentally ill person it is necessary so to do:

Provided that no person so admitted as an inpatient shall be kept in the psychiatric hospital or psychiatric nursing home as an inpatient for a period exceeding ninety days except in accordance with the other provisions of this Act.

(*2*) Every application under sub-section (*1*) shall be in the prescribed form and be accompanied by two medical certificates, from two medical practitioners of whom one shall be a medical practitioner in the service of Government, to the effect that the condition of such mentally ill person is such that he should be kept under observation and treatment as an inpatient in a psychiatric hospital or psychiatric nursing home:

Provided that the medical officer, in charge of the psychiatric hospital or psychiatric nursing home concerned may, if satisfied that it is proper so to do, cause a mentally ill person to be examined by two medical practitioners working in the hospital or in the nursing home instead of requiring such certificates.

(*3*) Any mentally ill person admitted under sub-section (*1*) or his relative or friend may apply to the Magistrate for his discharge and the Magistrate may, after giving notice to the person at whose instance he was admitted to the psychiatric hospital or psychiatric nursing home and after making such inquiry as he may deem fit either allow or dismiss the application.

(*4*) The provisions of the foregoing sub-section shall be without prejudice to the powers exercisable by a Magistrate before whom the case of a mentally ill person is brought, whether under this section or under any other provision of this Act, to pass a reception order, if he is satisfied that it is necessary so to do in accordance with the relevant provisions of this Act.

PART III

Reception orders

A.—*Reception orders on applications*

Application for reception order.

20. (*1*) An application for a reception order may be made by—

(*a*) the medical officer in charge of a psychiatric hospital or psychiatric nursing home, or

(*b*) by the husband, wife or any other relative of the mentally ill person.

(*2*) Where a medical officer in charge of a psychiatric hospital or psychiatric nursing home in which a mentally ill person is undergoing treatment under a temporary treatment order is satisfied that—

(*a*) the mentally ill person is suffering from mental disorder of such a nature and degree that his treatment in the psychiatric hospital

or, as the case may be, psychiatric nursing home is required to be continued for more than six months, or

(*b*) it is necessary in the interests of the health and personal safety of the mentally ill person or for the protection of others that such person shall be detained in a psychiatric hospital or psychiatric nursing home,

he may make an application to the Magistrate within the local limits of whose jurisdiction the psychiatric hospital or, as the case may be, psychiatric nursing home is situated, for the detention of such mentally ill person under a reception order in such psychiatric hospital or psychiatric nursing home, as the case may be.

(3) Subject to the provisions of sub-section (5), the husband or wife of a person who is alleged to be mentally ill or, where there is no husband or wife, or where the husband or wife is prevented by reason of any illness or absence from India or otherwise from making the application, any other relative of such person may make an application to the Magistrate within the local limits of whose jurisdiction the said person ordinarily resides, for the detention of the alleged mentally ill person under a reception order in a psychiatric hospital or psychiatric nursing home.

(4) Where the husband or wife of the alleged mentally ill person is not the applicant, the application shall contain the reasons for the application not being made by the husband or wife and shall indicate the relationship of the applicant with the alleged mentally ill person and the circumstances under which the application is being made.

(5) No person,—

(*i*) who is a minor, or

(*ii*) who, within fourteen days before the date of the application, has not seen the alleged mentally ill person,

shall make an application under this section.

(6) Every application under sub-section (3) shall be made in the prescribed form and shall be signed and verified in the prescribed manner and shall state whether any previous application had been made for inquiry into the mental condition of the alleged mentally ill person and shall be accompanied by two medical certificates from two medical practitioners of whom one shall be a medical practitioner in the service of Government.

Form and contents of medical certificates.

21. Every medical certificate referred to in sub-section (6) of section 20 shall contain a statement,—

(*a*) that each of the medical practitioners referred to in that sub-section has independently examined the alleged mentally ill person and has formed his opinion on the basis of his own observations and from the particulars communicated to him; and

(*b*) that in the opinion of each such medical practitioner the alleged mentally ill person is suffering from mental disorder of such a nature and degree as to warrant the detention of such person in a psychiatric hospital or psychiatric nursing home and that such detention is necessary in the interests of the health and personal safety of that person or for the protection of others.

Procedure upon application for reception order.

22. (*1*) On receipt of an application under sub-section (*2*) of section 20, the Magistrate may make a reception order, if he is satisfied that—

(*i*) the mentally ill person is suffering from mental disorder of such a nature and degree that it is necessary to detain him in a psychiatric hospital or psychiatric nursing home for treatment; or

(*ii*) it is necessary in the interests of the health and personal safety of the mentally ill person or for the protection of others that he should be so detained, and a temporary treatment order would not be adequate in the circumstances of the case and it is necessary to make a reception order.

(*2*) On receipt of an application under sub-section (*3*) of section 20, the Magistrate shall consider the statements made in the application and the evidence of mental illness as disclosed by the medical certificates.

(*3*) If the Magistrate considers that there are sufficient grounds for proceeding further, he shall personally examine the alleged mentally ill person unless, for reasons to be recorded in writing, he thinks that it is not necessary or expedient to do so.

(*4*) If the Magistrate is satisfied that a reception order may properly be made forthwith, he may make such order, and if the Magistrate is not so satisfied, he shall fix a date for further consideration of the application and may make such inquiries concerning the alleged mentally ill person as he thinks fit.

(*5*) The notice of the date fixed under sub-section (*4*) shall be given to the applicant and to any other person to whom, in the opinion of the Magistrate, such notice shall be given.

(*6*) If the Magistrate fixes a date under sub-section (*4*) for further consideration of the application, he may make such order as he thinks fit, for the proper care and custody of the alleged mentally ill person pending disposal of the application.

(*7*) On the date fixed under sub-section (*4*), or on such further date as may be fixed by the Magistrate, he shall proceed to consider the application *in camera*, in the presence of—

(*i*) the applicant;

(*ii*) the alleged mentally ill person (unless the Magistrate in his discretion otherwise directs);

(*iii*) the person who may be appointed by the alleged mentally ill person to represent him; and

(*iv*) such other person as the Magistrate thinks fit,

and if the Magistrate is satisfied that the alleged mentally ill person, in relation to whom the application is made, is so mentally ill that in the interests of the health and personal safety of that person or for the protection of others it is necessary to detain him in a psychiatric hospital or psychiatric nursing home for treatment, he may pass a reception order for that purpose and if he is not so satisfied, he shall dismiss the application and any such order may provide for the payment of the costs of

the inquiry by the applicant personally or from out of the estate of the mentally ill person, as the Magistrate may deem appropriate.

(8) If any application is dismissed under sub-section (7), the Magistrate shall record the reasons for such dismissal and a copy of the order shall be furnished to the applicant.

B.—*Reception orders on production of mentally ill persons before Magistrate*

Powers and duties of police officers in respect of certain mentally ill persons.

23. (1) Every officer in charge of a police station,—

(a) may take or cause to be taken into protection any person found wandering at large within the limits of his station whom he has reason to believe to be so mentally ill as to be incapable of taking care of himself, and

(b) shall take or cause to be taken into protection any person within the limits of his station whom he has reason to believe to be dangerous by reason of mental illness.

(2) No person taken into protection under sub-section (1) shall be detained by the police without being informed, as soon as may be, of the grounds for taking him into such protection, or where, in the opinion of the officer taking the person into protection, such person is not capable of understanding those grounds, without his relatives or friends, if any, being informed of such grounds.

(3) Every person who is taken into protection and detained under this section shall be produced before the nearest Magistrate within a period of twenty-four hours of taking him into such protection excluding the time necessary for the journey from the place where he was taken into such protection to the Court of the Magistrate and shall not be detained beyond the said period without the authority of the Magistrate.

Procedure on production of mentally ill person.

24. (1) If a person is produced before a Magistrate under sub-section (3) of section 23, and if, in his opinion, there are sufficient grounds for proceeding further, the Magistrate shall—

(a) examine the person to assess his capacity to understand,

(b) cause him to be examined by a medical officer, and

(c) make such inquiries in relation to such person as he may deem necessary.

(2) After the completion of the proceedings under sub-section (1), the Magistrate may pass a reception order authorising the detention of the said person as an inpatient in a psychiatric hospital or psychiatric nursing home,—

(a) if the medical officer certifies such person to be a mentally ill person, and

(b) if the Magistrate is satisfied that the said person is a mentally ill person and that in the interests of the health and personal safety of that person or for the protection of others, it is necessary to pass such order:

Provided that if any relative or friend of the mentally ill person desires that the mentally ill person be sent to any particular licensed psychiatric hospital or licensed psychiatric nursing home for treatment therein and undertakes in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the mentally ill person in such hospital or nursing home, the Magistrate shall, if the medical officer in charge of such hospital or nursing home consents, make a reception order for the admission of the mentally ill person into that hospital or nursing home and detention therein:

Provided further that if any relative or friend of the mentally ill person enters into a bond, with or without sureties for such amount as the Magistrate may determine, undertaking that such mentally ill person will be properly taken care of and shall be prevented from doing any injury to himself or to others, the Magistrate may, instead of making a reception order, hand him over to the care of such relative or friend.

Order in case of mentally ill person cruelly treated or not under proper care and control.

25. (*1*) Every officer in charge of a police station, who has reason to believe that any person within the limits of his station is mentally ill and is not under proper care and control, or is ill-treated or neglected by any relative or other person having charge of such mentally ill person, shall forthwith report the fact to the Magistrate within the local limits of whose jurisdiction the mentally ill person resides.

(*2*) Any private person who has reason to believe that any person is mentally ill and is not under proper care and control, or is ill-treated or neglected by any relative or other person having charge of such mentally ill person, may report the fact to the Magistrate within the local limits of whose jurisdiction the mentally ill person resides.

(*3*) If it appears to the Magistrate, on the report of a police officer or on the report or information derived from any other person, or otherwise that any mentally ill person within the local limits of his jurisdiction is not under proper care and control, or is ill-treated or neglected by any relative or other person having the charge of such mentally ill person, the Magistrate may cause the mentally ill person to be produced before him, and summon such relative or other person who is, or who ought to be in charge of, such mentally ill person.

(*4*) If such relative or any other person is legally bound to maintain the mentally ill person, the Magistrate may, by order, require the relative or the other person to take proper care of such mentally ill person and where such relative or other person wilfully neglects to comply with the said order, he shall be punishable with fine which may extend to two thousand rupees.

(*5*) If there is no person legally bound to maintain the mentally ill person, or if the person legally bound to maintain the mentally ill person refuses or neglects to maintain such person, or if, for any other reason, the Magistrate thinks fit so to do, he may cause the mentally ill person to be produced before him and, without prejudice to any action that may be taken under sub-section (*4*), proceed in the manner

provided in section 24 as if such person had been produced before him under sub-section (3) of section 23.

C.—*Further provisions regarding admission and detention of certain mentally ill persons*

Admission as in-patient after in-quisition.

26. If any District Court holding an inquisition under Chapter VI regarding any person who is found to be mentally ill is of opinion that it is necessary so to do in the interests of such person, it may, by order, direct that such person shall be admitted and kept as an inpatient in a psychiatric hospital or psychiatric nursing home and every such order may be varied from time to time or revoked by the District Court.

3 of 1900.
45 of 1950.
46 of 1950.
62 of 1957.
2 of 1974.

Admission and detention of mentally ill prisoner.

27. An order under section 30 of the Prisoners Act, 1900, or under section 144 of the Air Force Act, 1950, or under section 145 of the Army Act, 1950, or under section 143 or section 144 of the Navy Act, 1957, or under section 330 or section 335 of the Code of Criminal Procedure, 1973, directing the reception of a mentally ill prisoner into any psychiatric hospital or psychiatric nursing home, shall be sufficient authority for the admission of such person in such hospital or, as the case may be, such nursing home or any other psychiatric hospital or psychiatric nursing home to which such person may be lawfully transferred for detention therein.

Detention of alleged mentally ill person, pending report by medical officer.

28. (*1*) When any person alleged to be a mentally ill person appears or is brought before a Magistrate under section 23 or section 25, the Magistrate may, by order in writing, authorise the detention of the alleged mentally ill person under proper medical custody in an observation ward of a general hospital or general nursing home or psychiatric hospital or psychiatric nursing home or in any other suitable place for such period not exceeding ten days as the Magistrate may consider necessary for enabling any medical officer to determine whether a medical certificate in respect of that alleged mentally ill person may properly be given under clause (*a*) of sub-section (*2*) of section 24.

(*2*) The Magistrate may, from time to time, for the purpose mentioned in sub-section (*1*), by order in writing, authorise such further detention of the alleged mentally ill person for periods not exceeding ten days at a time as he may deem necessary:

Provided that no person shall be authorised to be detained under this sub-section for a continuous period exceeding thirty days in the aggregate.

Detention of mentally ill person pending his removal to psychiatric hospital or psychiatric nursing home.

29. Whenever any reception order is made by a Magistrate under section 22, section 24 or section 25, he may, for reasons to be recorded in writing, direct that the mentally ill person in respect of whom the order is made may be detained for such period not exceeding thirty days in such place as he may deem appropriate, pending the removal of such person to a psychiatric hospital or psychiatric nursing home.

D.—Miscellaneous provisions in relation to orders under this Chapter

Time and manner of medical examination of mentally ill person.

30. Where any order under this Chapter is required to be made on the basis of a medical certificate, such order shall not be made unless the person who has signed the medical certificate, or where such order is required to be made on the basis of two medical certificates, the signatory of the respective certificates, has certified that he has personally examined the alleged mentally ill person,—

(*i*) in the case of an order made on an application, not earlier than ten clear days immediately before the date on which such application is made; and

(*ii*) in any other case, not earlier than ten clear days immediately before the date of such order:

Provided that where a reception order is required to be made on the basis of two medical certificates such order shall not be made unless the certificates show that the signatory of each certificate examined the alleged mentally ill person independently of the signatory of the other certificate.

Authority for reception order.

31. A reception order made under this Chapter shall be sufficient authority—

(*i*) for the applicant or any person authorised by him, or

(*ii*) in the case of a reception order made otherwise than on an application, for the person authorised so to do by the authority making the order,

to take the mentally ill person to the place mentioned in such order or for his admission and treatment as an inpatient in the psychiatric hospital or psychiatric nursing home specified in the order or, as the case may be, for his admission and detention therein, or in any psychiatric hospital or psychiatric nursing home to which he may be removed in accordance with the provisions of this Act, and the medical officer in charge shall be bound to comply with such order:

Provided that in any case where the medical officer in charge finds accommodation in the psychiatric hospital or psychiatric nursing home inadequate, he shall, after according admission, intimate that fact to the Magistrate or the District Court which passed the order and thereupon the Magistrate or the District Court, as the case may be, shall pass such order as he or it may deem fit:

Provided further that every reception order shall cease to have effect—

(*a*) on the expiry of thirty days from the date on which it was made, unless within that period, the mentally ill person has been admitted to the place mentioned therein, and

(*b*) on the discharge, in accordance with the provisions of this Act, of the mentally ill person.

Copy of reception order to be sent to medical officer in charge.

32. Every Magistrate or District Court making a reception order shall forthwith send a certified copy thereof together with copies of the requisite medical certificates and the statement of particulars to the medical officer in charge of the psychiatric hospital or psychiatric nursing home to which the mentally ill person is to be admitted.

Restriction as to psychiatric hospitals and psychiatric nursing homes into which reception order may direct admission.

33. No Magistrate or District Court shall pass a reception order for the admission as an inpatient to, or for the detention of any mentally ill person, in any psychiatric hospital or psychiatric nursing home outside the State in which the Magistrate or the District Court exercises jurisdiction:

Provided that an order for admission or detention into or in a psychiatric hospital or psychiatric nursing home situated in any other State may be passed if the State Government has by general or special order and after obtaining the consent of the Government of such other State, authorised the Magistrate or the District Court in that behalf.

Amendment of order or document.

34. If, after the admission of any mentally ill person to any psychiatric hospital or psychiatric nursing home under a reception order, it appears that the order under which he was admitted or detained or any of the documents on the basis of which such order was made is defective or incorrect, the same may, at any time thereafter, be amended with the permission of the Magistrate or the District Court, by the person or persons who signed the same and upon such amendment being made, the order shall have effect and shall be deemed always to have had effect as if it had been originally made as so amended, or, as the case be, the documents upon which it was made had been originally furnished as so amended.

Power to appoint substitute for person upon whose application reception order has been made.

35. (*1*) Subject to the provisions of this section the Magistrate may, by order in writing (hereinafter referred to as the order of substitution), transfer the duties and responsibilities under this Act, of the person on whose application a reception order was made, to any other person who is willing to undertake the same and such other person shall thereupon be deemed for the purposes of this Act to be the person on whose application the reception order was made and all references in this Act to the latter person shall be construed accordingly:

Provided that no such order of substitution shall absolve the person upon whose application the reception order was made or, if he is dead, his legal representatives, from any liability incurred before the date of the order of substitution.

(*2*) Before making any order of substitution, the Magistrate shall send a notice to the person on whose application the reception order was made, if he is alive, and to any relative of the mentally ill person who, in the opinion of the Magistrate, shall have notice.

(*3*) The notice under sub-section (*2*) shall specify the name of the person in whose favour it is proposed to make the order of substitution and the date (which shall be not less than twenty days from the date

of issue of the notice) on which objections, if any, to the making of such order shall be considered.

(4) On the date specified under sub-section (3), or on any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice was sent, or by any other relative of the mentally ill person, and shall receive all such evidence as may be produced by or on behalf of any such person or relative and after making such inquiry as the Magistrate may deem fit, make or refrain from making the order of substitution:

Provided that, if the person on whose application the reception order was made is dead and any other person is willing and is, in the opinion of the Magistrate, fit to undertake the duties and responsibilities under this Act of the former person, the Magistrate shall, subject to the provisions contained in the proviso to sub-section (1), make an order to that effect.

(5) In making any substitution order under this section, the Magistrate shall give preference to the person who is the nearest relative of the mentally ill person, unless, for reasons to be recorded in writing the Magistrate considers that giving such preference will not be in the interests of the mentally ill person.

(6) The Magistrate may make such order for the payment of the costs of an inquiry under this section by any person or from out of the estate of the mentally ill person as he thinks fit.

(7) Any notice under sub-section (2) may be sent by post to the last known address of the person for whom it is intended.

Officers competent to exercise powers and discharge functions of Magistrate under certain sections.

36. In any area where a Commissioner of Police has been appointed, all the powers and functions of the Magistrate under sections 23, 24, 25 and 28 may be exercised or discharged by the Commissioner of Police and all the functions of an officer in charge of a police station under this Act may be discharged by any police officer not below the rank of an Inspector.

CHAPTER V

INSPECTION, DISCHARGE, LEAVE OF ABSENCE AND REMOVAL OF MENTALLY ILL PERSONS

PART I

Inspection

Appointment of Visitors.

37. (1) The State Government or the Central Government, as the case may be, shall appoint for every psychiatric hospital and every psychiatric nursing home, not less than five Visitors, of whom at least one shall be a medical officer, preferably a psychiatric and two social workers.

(2) The head of the Medical Services of the State or his nominee preferably a psychiatrist shall be an *ex officio* Visitor of all the psychiatric hospitals and psychiatric nursing homes in the State.

(3) The qualifications of persons to be appointed as Visitors under sub-section (1) and the terms and conditions of their appointment shall be such as may be prescribed.

Monthly inspection by Visitors.

38. Not less than three Visitors shall, at least once in every month, make a joint inspection of every part of the psychiatric hospital or psychiatric nursing home in respect of which they have been appointed and examine every minor admitted as a voluntary patient under section 17 and, as far as circumstances will permit, every other mentally ill person admitted therein and the order for the admission of, and the medical certificates relating to, every mentally ill person admitted subsequent to the joint inspection immediately preceding, and shall enter in a book kept for that purpose such remarks as they deem appropriate in regard to the management and condition of such hospital or nursing home and of the inpatients thereof:

Provided that the Visitors shall not be entitled to inspect any personal records of an inpatient which in the opinion of the medical officer in charge are confidential in nature:

Provided further that if any of the Visitors does not participate in the joint inspection of the psychiatric hospital or psychiatric nursing home in respect of which he was appointed a Visitor for three consecutive months, he shall cease to hold office as such Visitor.

Inspection of mentally ill prisoners.

45 of 1950.
46 of 1950.
62 of 1957.
2 of 1974.

39. (1) Notwithstanding anything contained in section 38, where any person is detained under the provisions of section 144 of the Air Force Act, 1950, or section 145 of the Army Act, 1950, or section 143 or section 144 of the Navy Act, 1957, or section 330 or section 335 of the Code of Criminal Procedure, 1973,—

(i) the Inspector-General of Prisons, where such person is detained in a jail; and

(ii) all or any three of the Visitors including at least one social worker appointed under sub-section (1) of section 37, where such person is detained in a psychiatric hospital or psychiatric nursing home,

shall, once in every three months, visit such person at the place where he is detained, in order to assess the state of mind of such person and make a report thereon to the authority under whose order such person is so detained.

(2) The State Government may empower any of its officers to discharge all or any of the functions of the Inspector-General of Prisons under sub-section (1).

(3) The medical officer in charge of a psychiatric hospital or psychiatric nursing home wherein any person referred to in sub-section (1) is detained, shall once in every six months, make a special report regarding the mental and physical condition of such person to the authority under whose order such person is detained.

(4) Every person who is detained in jail under the provisions of various Acts referred to in sub-section (1) shall be visited at least once in every three months by a psychiatrist, or, where a psychiatrist is not available, by a medical officer empowered by the State Government in

this behalf and such psychiatrist or, as the case may be, such medical officer shall make a special report regarding the mental and physical condition of such person to the authority under whose order such person is detained.

PART II

Discharge

Order of discharge by medical officer in charge.

40. (*1*) Notwithstanding anything contained in Chapter IV, the medical officer in charge of a psychiatric hospital or psychiatric nursing home may, on the recommendation of two medical practitioners one of whom shall preferably be a psychiatrist, by order in writing, direct the discharge of any person, other than a voluntary patient detained or undergoing treatment therein as an inpatient, and such person shall thereupon be discharged from the psychiatric hospital or psychiatric nursing home:

Provided that no order under this sub-section shall be made in respect of a mentally ill prisoner otherwise than as provided in section 30 of the Prisoners Act, 1900 or in any other relevant law. 3 of 1900.

(*2*) Where any order of discharge is made under sub-section (*1*) in respect of a person who has been detained or is undergoing treatment as inpatient in pursuance of an order of any authority, a copy of such order shall be immediately forwarded to that authority by the medical officer in charge.

Discharge of mentally ill persons on application.

41. Any person detained in a psychiatric hospital or psychiatric nursing home under an order made in pursuance of an application made under this Act, shall be discharged on an application made in that behalf to the medical officer in charge by the person on whose application the order was made:

Provided that no person shall be discharged under this section if the medical officer in charge certifies in writing that the person is dangerous and unfit to be at large.

Order of discharge on the undertaking of relatives or friends, etc., for due care of mentally ill person.

42. (*1*) Where any relative or friend of a mentally ill person detained in a psychiatric hospital or psychiatric nursing home under section 22, section 24 or section 25 desires that such person shall be delivered over to his care and custody, he may make an application to the medical officer in charge who shall forward it together with his remarks thereon to the authority under whose orders the mentally ill person is detained.

(*2*) Where an application is received under sub-section (*1*), the authority shall, on such relative or friend furnishing a bond, with or without sureties, for such amount as such authority may specify in this behalf, undertaking to take proper care of such mentally ill person, and ensuring that the mentally ill person shall be prevented from causing injury to himself or to others, make an order of discharge and thereupon the mentally ill person shall be discharged.

Discharge of person on his request.

43. (*1*) Any person (not being a mentally ill prisoner) detained in pursuance of an order made under this Act who feels that he has recovered from his mental illness, may make an application to the Magistrate, where necessary under the provisions of this Act, for his discharge from the psychiatric hospital or psychiatric nursing home.

(2) An application made under sub-section (1) shall be supported by a certificate either from the medical officer in charge of the psychiatric hospital or psychiatric nursing home where the applicant is undergoing treatment or from a psychiatrist.

(3) The Magistrate may, after making such inquiry as he may deem fit, pass an order discharging the person or dismissing the application.

Discharge of person subsequently found on inquisition to be of sound mind.

44. If any person detained in a psychiatric hospital or psychiatric nursing home in pursuance of a reception order made under this Act is subsequently found, on an inquisition held in accordance with the provisions of Chapter VI, to be of sound mind or capable of taking care of himself and managing his affairs, the medical officer in charge shall forthwith, on the production of a copy of such finding duly certified by the District Court, discharge such person from such hospital or nursing home.

PART III

Leave of absence

Leave of absence.

45. (1) An application for leave of absence on behalf of any mentally ill person (not being a mentally ill prisoner) undergoing treatment as an inpatient in any psychiatric hospital or psychiatric nursing home may be made to the medical officer in charge,—

(a) in the case of a person who was admitted on the application of the husband or wife, by the husband or wife of such mentally ill person, or where by reason of mental or physical illness, absence from India or otherwise, the husband or wife is not in a position to make such application, by any other relative of the mentally ill person duly authorised by the husband or wife, or

(b) in the case of any other person, by the person on whose application the mentally ill person was admitted:

Provided that no application under this sub-section shall be made by a person who has not attained the age of majority.

(2) Every application under sub-section (1) shall be accompanied by a bond, with or without sureties for such amount as the medical officer in charge may specify, undertaking—

(i) to take proper care of the mentally ill person,

(ii) to prevent the mentally ill person from causing injury to himself or to others, and

(iii) to bring back the mentally ill person to the psychiatric hospital or, as the case may be, psychiatric nursing home, on the expiry of the period of leave.

(3) On receipt of an application under sub-section (1), the medical officer in charge may grant leave of absence to the mentally ill person for such period as the medical officer in charge may deem necessary and subject to such conditions as may, in the interests of the health and personal safety of the mentally ill person or for the protection of others, be specified in the order:

Provided that the total number of days for which leave of absence may be granted to a patient under this sub-section shall not exceed sixty days.

(4) Where the mentally ill person is not brought back to the psychiatric hospital or psychiatric nursing home on the expiry of the leave granted to him under this section the medical officer in charge shall forthwith report that fact to the Magistrate within the local limits of whose jurisdiction such hospital or nursing home is situate and the Magistrate may, after making such inquiry as he may deem fit, make an order directing him to be brought back to the psychiatric hospital or psychiatric nursing home, as the case may be.

(5) Nothing contained in this section shall apply to a voluntary patient referred to in section 15 or section 16 and the provisions of section 18 shall apply to him.

Grant of leave of absence by Magistrate.

46. (1) Where the medical officer in charge refuses to grant leave of absence to a mentally ill person under section 45, the applicant may apply to the Magistrate within the local limits of whose jurisdiction the psychiatric hospital or psychiatric nursing home wherein the mentally ill person is detained is situate, for the grant of leave of absence to the mentally ill person and the Magistrate may, if he is satisfied that it is necessary so to do, and on the applicant entering into a bond in accordance with the provisions of sub-section (2), by order, grant leave of absence to the mentally ill person for such period and subject to such conditions as may be specified in the order.

(2) Every bond referred to in sub-section (1) shall be with or without sureties and for such amount as the Magistrate may decide and shall contain the undertaking referred to in sub-section (2) of section 45.

(3) The Magistrate shall forward a copy of his order to the medical officer in charge and on receipt of such order the medical officer in charge shall entrust the mentally ill person to the person on whose application the leave of absence was granted under this section.

PART IV

Removal

Removal of mentally ill person from one psychiatric hospital or psychiatric nursing home to any other psychiatric hospital or psychiatric nursing home.

47. (1) Any mentally ill person other than a voluntary patient referred to in section 15 or section 16 may, subject to any general or special order of the State Government, be removed from any psychiatric hospital or psychiatric nursing home to any other psychiatric hospital or psychiatric nursing home within the State, or to any other psychiatric hospital or psychiatric nursing home in any other State with the consent of the Government of that other State:

Provided that no mentally ill person admitted to a psychiatric hospital or psychiatric nursing home under an order made in pursuance of an application made under this Act shall be so removed unless intimation thereof has been given to the applicant.

(2) The State Government may make such general or special order as it thinks fit directing the removal of any mentally ill prisoner from the place where he is for the time being detained, to any psychiatric hospital, psychiatric nursing home, jail or other place of safe custody in the State or to any psychiatric hospital, psychiatric nursing home, jail or other place of safe custody in any other State with the consent of the Government of that other State.

Admission, detention and retaking in certain cases.

48. Every person brought into a psychiatric hospital or psychiatric nursing home under any order made under this Act, may be detained or, as the case may be, admitted as an inpatient therein until he is removed or is discharged under any law, and in case of his escape from such hospital or nursing home he may, by virtue of such order, be retaken by any police officer or by the medical officer in charge or any officer or servant of such hospital or nursing home, or by any other person authorised in that behalf by the medical officer in charge, and conveyed to, and received and detained or, as the case may be, kept as an inpatient in such hospital or nursing home:

Provided that in the case of a mentally ill person (not being a mentally ill prisoner) the power to retake as aforesaid under this section shall not be exercisable after the expiry of a period of one month from the date of his escape.

Appeal from orders of Magistrate.

49. Any person aggrieved by any order of a Magistrate, passed under any of the foregoing provisions may, within sixty days from the date of the order, appeal against that order to the District Court within the local limits of whose jurisdiction the Magistrate exercised the powers, and the decision of the District Court on such appeal shall be final.

CHAPTER VI

JUDICIAL INQUISITION REGARDING ALLEGED MENTALLY ILL PERSON POSSESSING PROPERTY, CUSTODY OF HIS PERSON AND MANAGEMENT OF HIS PROPERTY

Application for judicial inquisition.

50. (1) Where an alleged mentally ill person is possessed of property, an application for holding an inquisition into the mental condition of such person may be made either—

(a) by any of his relatives, or

(b) by a public curator appointed under the Indian Succession Act, 1925, or 39 of 1925.

(c) by the Advocate-General of the State in which the alleged mentally ill person resides, or

(d) where the property of the alleged mentally ill person comprises land or interest in land, or where the property or part thereof is of such a nature as can lawfully be entrusted for management to a Court of Wards established under any law for the time being in force in the State, by the Collector of the District in which such land is situate,

to the District Court within the local limits of whose jurisdiction the alleged mentally ill person resides.

(2) On receipt of an application under sub-section (1), the District Court shall, by personal service or by such other mode of service as it

may deem fit, serve a notice on the alleged mentally ill person to attend at such place and at such time as may be specified in the notice or shall, in like manner, serve a notice on the person having the custody of the alleged mentally ill person to produce such person at the said place and at the said time, for being examined by the District Court or by any other person from whom the District Court may call for a report concerning the mentally ill person:

Provided that, if the alleged mentally ill person is a woman, who according to the custom prevailing in the area where she resides or according to the religion to which she belongs, ought not to be compelled to appear in public, the District Court may cause her to be examined by issuing a commission as provided in the Code of Civil Procedure, 1908. 5 of 1908.

(*3*) A copy of the notice under sub-section (*2*) shall also be served upon the applicant and upon any relative of the alleged mentally ill person or other person who, in the opinion of the District Court, shall have notice of judicial inquisition to be held by it.

(*4*) For the purpose of holding the inquisition applied for, the District Court may appoint two or more persons to act as assessors.

Issues on which finding should be given by District Court after inquisition.

51. On completion of the inquisition, the District Court shall record its findings on,—

(*i*) whether the alleged mentally ill person is in fact mentally ill or not, and

(*ii*) where such person is mentally ill, whether he is incapable of taking care of himself and of managing his property, or incapable of managing his property only.

Provision for appointing guardian of mentally ill person and for manager of property.

52. (*1*) Where the District Court records a finding that the alleged mentally ill person is in fact mentally ill and is incapable of taking care of himself and of managing his property, it shall make an order for the appointment of a guardian under section 53 to take care of his person and of a manager under section 54 for the management of his property.

(*2*) Where the District Court records a finding that the alleged mentally ill person is in fact mentally ill and is incapable of managing his property but capable of taking care of himself, it shall make an order under section 54 regarding the management of his property.

(*3*) Where the District Court records a finding that the alleged mentally ill person is not mentally ill, it shall dismiss the application.

(*4*) Where the District Court deems fit, it may appoint under sub-section (*1*) the same person to be the guardian and manager.

Appointment of guardian of mentally ill person.

53. (*1*) Where the mentally ill person is incapable of taking care of himself, the District Court or, where a direction has been issued under sub-section (*2*) of section 54, the Collector of the District, may appoint any suitable person to be his guardian.

(*2*) In the discharge of his functions under sub-section (*1*), the Collector shall be subject to the supervision and control of the State Government or of any authority appointed by it in that behalf.

Appointment of manager for management of property of mentally ill person.

54. (*1*) Where the property of the mentally ill person who is incapable of managing it is such as can be taken charge of by a Court of Wards under any law for the time being in force, the District Court shall authorise the Court of Wards to take charge of such property, and thereupon notwithstanding anything contained in such law, the Court of Wards shall assume the management of such property in accordance with that law.

(*2*) Where the property of the mentally ill person consists in whole or in part of land or of any interest in land which cannot be taken charge of by the Court of Wards, the District Court may, after obtaining the consent of the Collector of the District in which the land is situate, direct the Collector to take charge of the person and such part of the property or interest therein of the mentally ill person as cannot be taken charge of by the Court of Wards.

(*3*) Where the management of the property of the mentally ill person cannot be entrusted to the Court of Wards or to the Collector under sub-section (*1*) or sub-section (*2*), as the case may be, the District Court shall appoint any suitable person to be the manager of such property.

Appointment of manager by Collector.

55. Where the property of a mentally ill person has been entrusted to the Collector by the District Court under sub-section (*2*) of section 54, he may, subject to the control of the State Government or of any authority appointed by it in that behalf, appoint any suitable person for the management of the property of the mentally ill person.

Manager of property to execute bond.

56. Every person who is appointed as the manager of the property of a mentally ill person by the District Court or by the Collector shall, if so required by the appointing authority, enter into a bond for such sum, in such form and with such sureties as that authority, may specify, to account for all receipts from the property of the mentally ill person.

Appointment and remuneration of guardians and managers.

57. (*1*) No person, who is the legal heir or a mentally ill person shall be appointed under section 53, 54 or 55 to be the guardian of such mentally ill person or, as the case may be, the manager of his property unless the District Court or, as the case may be, the Collector, for reasons to be recorded in writing, considers that such appointment is for the benefit of the mentally ill person.

(*2*) The guardian of a mentally ill person or the manager of his property or both appointed under this Act shall be paid, from out of the property of the mentally ill person, such allowance as the appointing authority may determine.

Duties of guardian and manager.

58. (*1*) Every person appointed as a guardian of a mentally ill person or manager of his property, or of both, under this Act shall have the care of the mentally ill person or his property, or of both, and be responsible for the maintenance of the mentally ill person and of such members of his family as are dependent on him.

(*2*) Where the person appointed as guardian of a mentally ill person is different from the person appointed as the manager of his property, the manager of his property shall pay to the guardian of the mentally ill person such allowance as may be fixed by the authority appointing the guardian for the maintenance of the mentally ill person and of such members of his family as are dependent on him.

Powers of manager.

59. (*1*) Every manager appointed under this Act shall, subject to the provisions of this Act, exercise the same powers in regard to the management of the property of the mentally ill person in respect of which he is appointed as manager, as the mentally ill person would have exercised as owner of the property had he not been mentally ill, and shall realise all claims due to the estate of the mentally ill person and pay all debts and discharge all liabilities legally due from that estate:

Provided that the manager shall not mortgage, create any charge on, or, transfer by sale, gift, exchange or otherwise, any immovable property of the mentally ill person or lease out any such property for a period exceeding five years, unless he obtains the permission of the District Court in that behalf.

(*2*) The District Court may, on an application made by the manager, grant him permission to mortgage, create a charge on, or, transfer by sale, gift, exchange or otherwise, any immovable property of the mentally ill person or to lease out any such property for a period exceeding five years, subject to such conditions or restrictions as that Court may think fit to impose.

(*3*) The District Court shall cause notice of every application for permission to be served on any relative or friend of the mentally ill person and after considering objections, if any, received from the relative or friend and after making such inquiries as it may deem necessary, grant or refuse permission having regard to the interests of the mentally ill person.

Manager to furnish inventory and annual accounts.

60. (*1*) Every manager appointed under this Act shall, within a period of six months from the date of his appointment, deliver to the authority, which appointed him, an inventory of the immovable property belonging to the mentally ill person and of all assets and other movable property received on behalf of the mentally ill person, together with a statement of all claims due to and all debts and liabilities due by, such mentally ill person.

(*2*) Every such manager shall also furnish to the said appointing authority within a period of three months of the close of every financial year, an account of the property and assets in his charge, the sums received and disbursed on account of the mentally ill person and the balance remaining with him.

Manager's power to execute conveyances under orders of District Court.

61. Every manager appointed under this Act, may in the name and on behalf of the mentally ill person,—

(*a*) execute all such conveyances and instruments of transfers by way of sale, mortgage or otherwise of property of the mentally ill person as may be permitted by the District Court; and

(*b*) subject to the orders of the District Court, exercise all powers vested in that behalf in the mentally ill person, in his individual capacity or in his capacity as a trustee or as a guardian.

Manager to perform contracts directed by District Court.

62. Where the mentally ill person had, before his mental illness, contracted to sell or otherwise dispose of his property or any portion thereof, and if such contract is, in the opinion of the District Court, of such a nature as ought to be performed, the District Court may direct the manager appointed under this Act to perform such contract and to do such other acts in fulfilment of the contract as the Court considers necessary and thereupon the manager shall be bound to act accordingly

Disposal of business premises.

63. Where a mentally ill person had been engaged in business before he became mentally ill, the District Court may, if it appears to be for the benefit of the mentally ill person to dispose of his business premises, direct the manager appointed under this Act in relation to the property of such person to sell and dispose of such premises and to apply the sale proceeds thereof in such manner as the District Court may direct and thereupon the manager shall be bound to act accordingly.

Manager may dispose of leases.

64. Where a mentally ill person is entitled to a lease or underlease, and it appears to the manager appointed under this Act in relation to the property of such person that it would be for the benefit of the mentally ill person to dispose of such lease or underlease, such manager may, after obtaining the orders of the District Court, surrender, assign or otherwise dispose of such lease or underlease to such person for such consideration and upon such terms and conditions as the Court may direct.

Power to make order concerning any matter connected with mentally ill person.

65. The District Court may, on an application made to it by any person concerning any matter whatsoever connected with the mentally ill person or his property, make such order, subject to the provisions of this Chapter, in relation to that matter as in the circumstances it thinks fit.

Proceeding if accuracy of inventory or accounts is impugned.

66. If any relative of the mentally ill person or the Collector impugns, by a petition to the District Court, the accuracy of the inventory or statement referred to in sub-section (1), or, as the case may be, any annual account referred to in sub-section (2), of section 60, the Court may summon the manager and summarily inquire into the matter and make such order thereon as it thinks fit.

Provided that the District Court may, in its discretion, refer such petition to any Court subordinate to it, or to the Collector in any case where the manager was appointed by the Collector and the petition is not presented by the Collector.

Payment into public treasury and investment of proceeds of estate.

67. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the mentally ill person or for the management of his property, shall be paid into the public treasury on account of the estate, and shall be invested from time to time in any of the securities specified in section 20 of the Indian Trusts Act, 1882, unless the authority which appointed him, for reasons to be recorded in writing, directs that, in the interests of the mentally ill person such sums be otherwise invested or applied.

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Relative may sue for account.

68. Any relative of a mentally ill person may, with the leave of the District Court, sue for an account from any manager appointed under this Act, or from any such person after his removal from office or trust, or from his legal representative in the case of his death, in respect of any property then or formerly under his management or of any sums of money or other property received by him on account of such property.

Removal of managers and guardians

69. (*1*) The manager of the property of a mentally ill person may, for sufficient cause and for reasons to be recorded in writing, be removed by the authority which appointed him and such authority may appoint a new manager in his place.

(*2*) Any manager removed under sub-section (*1*) shall be bound to deliver the charge of all property of the mentally ill person to the new manager, and to account for all moneys received or disbursed by him.

(*3*) The District Court may, for sufficient cause, remove any guardian of a mentally ill person and appoint in his place a new guardian.

Dissolution and disposal of property of partnership on a member becoming mentally ill.

70. (*1*) Where a person, being a member of a partnership firm, is found to be mentally ill, the District Court may, on the application of any other partner for the dissolution of partnership or on the application of any person who appears to that Court to be entitled to seek such dissolution, dissolve the partnership.

(*2*) Upon the dissolution under sub-section (*1*), or otherwise, in due course of law, of a partnership firm to which that sub-section applies, the manager appointed under this Act may, in the name and on behalf of the mentally ill person, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the District Court may direct.

Power to apply property for maintenance of mentally ill person without appointing manager in certain cases.

71. (*1*) Notwithstanding anything contained in the foregoing provisions, the District Court may, instead of appointing a manager of the estate, order that in the case of cash, the cash and in the case of any other property the produce thereof, shall be realised and paid or delivered to such person as may be appointed by the District Court in this behalf, to be applied for the maintenance of the mentally ill person and of such members of his family as are dependent on him.

(*2*) A receipt given by the person appointed under sub-section (*1*) shall be valid discharge to any person who pays money or delivers any property of the mentally ill person to the person so appointed.

Power to order transfer of stock, securities or shares belonging to mentally ill person in certain cases.

72. Where any stock or Government securities or any share in a company (transferable within India or the dividends of which are payable therein) is or are standing in the name of, or vested in, a mentally ill person beneficially entitled thereto, or in the manager appointed under this Act or in a trustee for him, and the manager dies intestate, or himself becomes mentally ill, or is out of the jurisdiction of the District Court, or it is uncertain whether the manager is living or dead, or he neglects or refuses to transfer the stock, securities or shares, or to receive and pay over thereof the dividends to a new manager appointed in his place, within fourteen days after being required by the Court to do so, then the District Court may direct the company or Government concerned to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as it may direct.

Power to order transfer

73. Where any stock or Government securities or share in a company is or are standing in the name of, or vested in, any person residing out of India, the District Court upon being satisfied that such person has

been declared to be mentally ill and that his personal estate has been vested in a person appointed for the management thereof, according to the law of the place where he is residing, may direct the company or Government concerned to make such transfer of the stock, securities or shares or of any part thereof, to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends and proceeds, as the District Court thinks fit.

of stock, securities or shares of mentally ill person residing out of India.

74. If it appears to the District Court that the mental illness of a mentally ill person is in its nature temporary, and that it is expedient to make provision for a temporary period, for his maintenance or for the maintenance of such members of his family as are dependent on him, the District Court may, in like manner as under section 71, direct his property or a sufficient part thereof to be applied for the purpose specified therein.

Power to apply property for mentally ill person's maintenance in case of temporary mental illness.

75. (*1*) Where the District Court has reason to believe that any person who was found to be mentally ill after inquisition under this Chapter has ceased to be mentally ill, it may direct any court subordinate to it to inquire whether such person has ceased to be mentally ill.

(*2*) An inquiry under sub-section (*1*) shall, so far as may be, be conducted in the same manner as an inquisition conducted under this Chapter.

(*3*) If after an inquiry under this section, it is found that the mental illness of a person has ceased, the District Court shall order all actions taken in respect of the mentally ill person under this Act to be set aside on such terms and conditions as that Court thinks fit to impose.

Action taken in respect of mentally ill person to be set aside if District Court finds that his mental illness has ceased.

76. An appeal shall lie to the High Court from every order made by a District Court under this Chapter.

Appeals.

77. The District Court may, from time to time, make regulations for the purpose of carrying out the provisions of this Chapter.

Power of District Court to make regulations.

CHAPTER VII

LIABILITY TO MEET COST OF MAINTENANCE OF MENTALLY ILL PERSONS DETAINED IN PSYCHIATRIC HOSPITAL OR PSYCHIATRIC NURSING HOME

78. The cost of maintenance of a mentally ill person detained as an inpatient in any psychiatric hospital or psychiatric nursing home shall, unless otherwise provided for by any law for the time being in force, be borne by the Government of the State wherein the authority

Cost of maintenance to be borne by Government

in certain cases.

which passed the order in relation to the mentally ill person is subordinate, if—

(*a*) that authority which made the order has not taken an undertaking from any person to bear the cost of maintenance of such mentally ill person, and

(*b*) no provision for bearing the cost of maintenance of such a District Court under this Chapter.

Application to District Court for payment of cost of maintenance out of estate of mentally ill person or from a person legally bound to maintain him.

79. (*1*) Where any mentally ill person detained in a psychiatric hospital or psychiatric nursing home has an estate or where any person legally bound to maintain such person has the means to maintain such person, the Government liable to pay the cost of maintenance of such person under section 78 or any local authority liable to bear the cost of maintenance of such mentally ill person under any law for the time being in force, may make an application to the District Court within whose jurisdiction the estate of the mentally ill person is situate or the person legally bound to maintain the mentally ill person and having the means therefor resides, for an order authorising it to apply the estate of the mentally ill person to the cost of maintenance or, as the case may be, directing the person legally bound to maintain the mentally ill person and having the means therefor to bear the cost of maintenance of such mentally ill person.

(*2*) An order made by the District Court under sub-section (*1*) shall be enforced in the same manner, shall have the same force and effect and be subject to appeal, as a decree made by such Court in a suit in respect of the property or person mentioned therein.

Persons legally bound to maintain mentally ill person not absolved from such liability.

80. Nothing contained in the foregoing provisions shall be deemed to absolve a person legally bound to maintain a mentally ill person from maintaining such mentally ill person.

CHAPTER VIII

PROTECTION OF HUMAN RIGHTS OF MENTALLY ILL PERSONS

81. (*1*) No mentally ill person shall be subjected during treatment to any indignity (whether physical or mental) or cruelty.

(*2*) No mentally ill person under treatment shall be used for purposes of research, unless—

(*i*) such research is of direct benefit to him for purposes of diagnosis or treatment; or

(*ii*) such person, being a voluntary patient, has given his consent in writing or where such person (whether or not a voluntary patient) is incompetent, by reason of minority or otherwise, to give valid consent, the guardian or other person competent to give consent on his behalf, has given his consent in writing, for such research.

(3) Subject to any rules made in this behalf under section 94 for the purpose of preventing vexatious or defamatory communications or communications prejudicial to the treatment of mentally ill persons, no letters or other communications sent by or to a mentally ill persons under treatment shall be intercepted, detained or destroyed.

CHAPTER IX

PENALTIES AND PROCEDURE

Penalty for establishment or maintenance of psychiatric hospital or psychiatric nursing home in contravention of Chapter III.

82. (*1*) Any person who establishes or maintains a psychiatric hospital or psychiatric nursing home in contravention of the provisions of Chapter III shall, on conviction, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both, and in the case of a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever, after conviction under sub-section (1), continues to maintain a psychiatric hospital or psychiatric nursing home in contravention of the provisions of Chapter III shall, on conviction, be punishable with fine which may extend to one hundred rupees, for every day after the first day during which the contravention is continued.

Penalty for improper reception of mentally ill person.

83. Any person who receives or detains or keeps a mentally ill person in a psychiatric hospital or psychiatric nursing home otherwise than in accordance with the provisions of this Act, shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees, or with both.

Penalty for contravention of sections 60 and 69.

84. Any manager appointed under this Act to manage the property of a mentally ill person, who contravenes the provisions of section 60 or sub-section (2) of section 69, shall, on conviction, be punishable with fine which may extend to two thousand rupees and may be detained in a civil prison till he complies with the said provisions.

General provision for punishment of other offences.

85. Any person who contravenes any of the provisions of this Act or of any rule or regulation made thereunder, for the contravention of which no penalty is expressly provided, in this Act, shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Offences by companies.

86. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence

was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Sanction for prosecutions.

87. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence punishable under section 82, except with the previous sanction of the licensing authority. 2 (

CHAPTER X

MISCELLANEOUS

Provision as to bonds.

88. The provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973, shall, as far as may be, apply to bonds taken under this Act. 2 of 1974.

Report by medical officer.

89. The medical officer in charge of a psychiatric hospital or psychiatric nursing home shall, as soon as may be, after any mentally ill person detained therein has been discharged make a report in respect of his mental and physical condition to the authority under whose orders such person had been so detained.

Pension, etc., of mentally ill person payable by Government.

90. (*1*) Where any sum is payable in respect of pay, pension, gratuity or any allowance to any person by any Government and the person to whom the sum is payable is certified by a Magistrate under this Act to be a mentally ill person, the officer under whose authority such sum would be payable, may pay to the person having charge of the mentally ill person so much of the said sum, as he thinks fit, having regard to the cost of maintenance of such person and may pay to such members of the family of the mentally ill person as are dependent on him for maintenance, the surplus, if any, or such part thereof, as he thinks fit, having regard to the cost of maintenance of such members.

(2) Where there is any further surplus amount available out of the funds specified in sub-section (*1*) after making payments as provided in that sub-section, the Government shall hold the same to be dealt with as follows, namely:—

(*a*) where the mentally ill person is certified to have ceased to be mentally ill by the District Court within the local limits of

whose jurisdiction such person resides or is kept or detained, the whole of the surplus amount shall be paid back to that person;

(*b*) where the mentally ill person dies before payment, the whole of the surplus amount shall be paid over to those of his heirs who are legally entitled to receive the same;

(*c*) where the mentally ill person dies during his mental illness without leaving any person legally entitled to succeed to his estate, the whole of the surplus amount shall, with the prior permission of the District Court, be utilised for such charitable purpose as may be approved by the District Court.

(*3*) The Central Government or the State Government, as the case may be, shall be discharged of all liability in respect of any amounts paid in accordance with this section.

Legal aid to mentally ill person at State expense in certain cases.

91. (*1*) Where a mentally ill person is not represented by a legal practitioner in any proceeding under this Act before a District Court or a Magistrate and it appears to the District Court or Magistrate that such person has not sufficient means to engage a legal practitioner, the District Court or Magistrate shall assign a legal practitioner to represent him at the expense of the State.

(*2*) Where a mentally ill person having sufficient means to engage a legal practitioner is not represented by a legal practitioner in any proceeding under this Act before a District Court or a Magistrate and it appears to the District Court or Magistrate, having regard to all the circumstances of the case, that such person ought to be represented by a legal practitioner, the District Court or Magistrate may assign a legal practitioner to represent him and direct the State to bear the expenses with respect thereto and recover the same from out of the property of such person.

(*3*) The High Court may, with the previous approval of the State Government, make rules providing for—

(*a*) the mode of selecting legal practitioners for the purpose of sub-sections (*1*) and (*2*);

(*b*) the facilities to be allowed to such legal practitioners;

(*c*) the fees payable to such legal practitioners by the Government and generally for carrying out the purpose of sub-sections (*1*) and (*2*).

Explanation.—In this section "legal practitioner" shall have the meaning assigned to it in clause (*i*) of section 2 of the Advocates Act, 1961. 25 of 1961.

Protection of action taken in good faith.

92. (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

(*2*) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

Construction of reference to certain laws, etc.

93. (*1*) Any reference in this Act to a law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

(*2*) Any reference in this Act to any officer or authority shall, in relation to any area in which there is no officer or authority with the same designation, be construed as a reference to such officer or authority as may be specified by the Central Government by notification.

Power of Central Government and State Government to make rules.

94. (*1*) The Central Government may, by notification, make rules providing for the qualifications of persons who may be appointed as Mental Health Authority under section 3 and the terms and conditions subject to which they may be appointed under that section and all other matters relating to such authority.

(*2*) Subject to the provisions of sub-section (*1*), the State Government, with the previous approval of the Central Government may, by notification, make rules for carrying out the provisions of this Act:

Provided that the first rules shall be made by the Central Government by notification.

(*3*) In particular, and without prejudice to the generality of the foregoing power, rules made under sub-section (*2*) may provide for all or any of the following matters, namely:—

(*a*) the qualifications of persons who may be appointed as Mental Health Authority and the terms and conditions subject to which they may be appointed under section 4 and all other matters relating to such authority;

(*b*) the class or category of persons for whom separate psychiatric hospitals and psychiatric nursing homes may be established and maintained under clause (*d*) of sub-section (*1*) of section 5;

(*c*) the form in which,—

(*i*) an application may be made for grant or renewal of a licence and the fee payable in respect thereof under section 7 or, as the case may be, section 9;

(*ii*) a licence may be granted for the establishment or maintenance of a psychiatric hospital or a psychiatric nursing home under section 8;

(*iii*) an application may be made for a reception order under section 20;

(*d*) the manner in which an order refusing to grant, or revoking, a licence shall be communicated under section 8 or, as the case may be, section 11;

(*e*) the manner in which a report may be made to the licensing authority under sub-section (*2*) of section 9;

(*f*) the minimum facilities referred to in the proviso to sub-section (*5*) of section 9, including,—

(*i*) psychiatrist—patient ratio;

(*ii*) other medical or para-medical staff;

(*iii*) space requirement;

(*iv*) treatment facilities; and

(*v*) equipment;

(*g*) the manner in which and the conditions subject to which a psychiatric hospital or psychiatric nursing home shall be maintained under section 10;

(*h*) the form and manner in which and the period within which an appeal against any order refusing to grant or renew a licence or revoking a licence shall be preferred and the fee payable in respect thereof under section 12;

(*i*) the manner in which records shall be maintained under sub-section (*1*) of section 13;

(*j*) the facilities to be provided under section 14 for the treatment of a mentally ill person as an outpatient;

(*k*) the manner in which application for a reception order shall be signed and verified under sub-section (*6*) of section 20;

(*l*) the qualifications of persons who may be appointed as Visitors and the terms and conditions on which they may be appointed, under section 37 and their functions;

(*m*) prevention of vexatious or defamatory communications and other matters referred to in sub-section (*3*) of section 81;

(*n*) any other matter which is required to be, or may be, prescribed.

Rules made by Central Government or the State Government to be laid before the Legislature.

95. (*1*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(*2*) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

Effect of Act on other laws.

96. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force and to the extent of such inconsistency that other law shall be deemed to have no effect.

Power to remove difficulty.

97. If any difficulty arises in giving effect to the provisions of this Act in any State, the State Government may, by order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no order shall be made under this section in relation to any State after the expiry of two years from the date on which this Act comes into force in that State.

Repeal and saving.

98. (*1*) The Indian Lunacy Act, 1912 and the Lunacy Act, 1977, are hereby repealed. 4 of 1912. Jammu and Kashmir Act 25 of 1977 (1920 AD).

(*2*) Notwithstanding such repeal, anything done or any action taken under either of the said Acts shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force until superseded by anything done or any action taken under this Act.

S. RAMAIAH,
Secretary to the Government of India.

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